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# Virginia Law Register

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## JUDGE WILLIAM DANIEL, JR.

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Profound and accurate learning in the law; power, eloquence, lucidity of statement and cogency of reasoning in advocacy; ability, courtesy, fearlessness and integrity as a judge—such were the qualities and attainments which make the name of William Daniel, Jr., honored and venerated in the juristic annals of Virginia, a State which has furnished to American jurisprudence some of the ablest of its expounders.

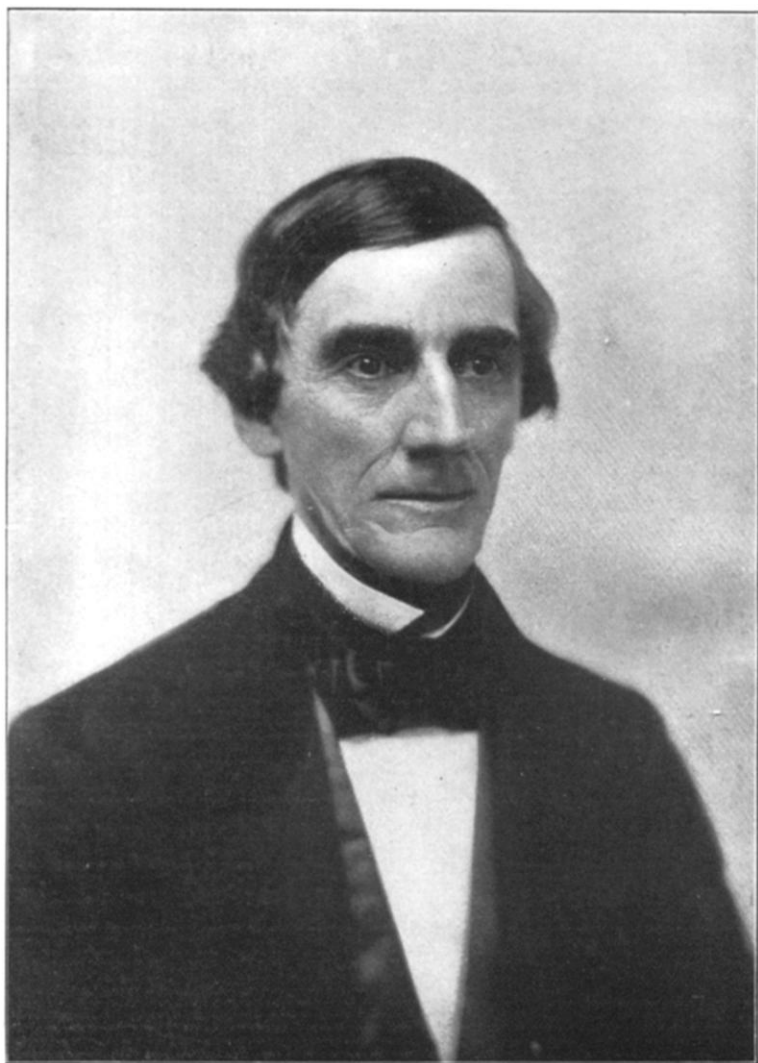
The distinction which belongs to that name was peculiarly the attainment of its possessor. He had no greatness “thrust upon him.” It was his own achievement, but none the less it may be said of him that he was “born great.” He was descended from the old Daniel family, of England; his father, for whom he was named, was a great lawyer and a distinguished judge, and his mother, Margaret Baldwin, of Winchester, was a member of the distinguished family of that name and herself a woman of great intellectuality, courage and nobility.

Of the senior William Daniel it may not be improper to say a few words in this place.

He was a member of the two famous legislatures of 1798 and 1799, and his mental and moral stature was of such stalwart proportions, that it has been said of him that, with perhaps the single exception of James Madison, he did not have a superior in either of those august bodies. His great speech in the legislature of 1798 against the “Alien and Sedition Laws”<sup>\*</sup> ranks as second to none delivered on that side of the great debate. The renowned “Resolutions” on this subject, passed by the legislature of 1798, were prepared by James Madison, and the forcible and powerful argument of William Daniel in their advocacy is believed to have been largely drawn upon by Mr. Madison in the preparation of his famous “report.” This belief is strengthened

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<sup>\*</sup> Report and Debates of 1798-99, J. W. Randolph, 1850.



JUDGE WILLIAM DANIEL, JR.

when it is considered that Madison was not a member of the legislature of 1798, and that the Resolutions as drawn by him were offered by his friend, John Taylor, of Caroline. Mr. Madison was elected to the legislature of 1799, and it was to that body that he presented his great State paper defending the Resolutions which the previous legislature had passed, and as there can be no doubt that he had read Mr. Daniel's speech, it may very well be concluded from that fact, and from the internal evidence, that it was of material assistance to him in preparing the Report, which was in the nature of a reply to the condemnatory response to the Resolutions made by the legislatures of Delaware, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire and Vermont.

As one of the circuit judges of the State, the elder William Daniel was *ipso facto* a member of the old General Court, as it existed before the Constitution of 1851 went into effect. This court had jurisdiction principally in criminal appeals, and from February 7, 1814, until July 1, 1852 (when it was abolished and its jurisdiction given to the Supreme Court of Appeals), it was the highest criminal tribunal in the State. In an able paper prepared by the late Francis H. McGuire, of Richmond, and read by Judge James C. Lamb before the Virginia State Bar Association in 1895, the character of the General Court is well attested in the words: "Some of the older practitioners of this day regard it as perhaps the best court Virginia has ever had, and competent critics have declared that it was distinctly superior to the Supreme Court as a court of criminal appeal." Perhaps the best known of Judge Daniel's opinions is that rendered by him in the famous case of *Commonwealth v. Jones*,\* a case which is still cited as among the leading cases defining the distinction between murder in the first and murder in the second degree. As that case shows, he was a judge of vigorous and discriminating legal intellect, a bold, independent thinker, a powerful logician, and a lucid and persuasive writer. As a man he was rugged and strong in character, somewhat inclined to austerity, but uncompromisingly just and of incorruptible integrity.

There are many anecdotes told of him which may serve to throw an interesting side-light upon his character. To him is attributed the familiar Virginia maxim, "The d—d lie is the first lick," and it is doubtless true that he regarded this as sound law in the forum of manhood, and would have acted upon the principle himself. For the

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\*1 Leigh, 598.

benefit of those who maintain the doctrine that "no language will justify an assault," it may be explained that the maxim referred to did not have its origin in a criminal case, but, according to the tradition in Campbell county, where Judge Daniel, Sr., lived, it was first announced in an action *ex delicto*, where a man who had provoked a fight by calling another "a d—d liar," got worsted in the fray and then sued his antagonist for damages. Judge Daniel instructed the jury that one who caused a fight was not entitled to recover damages, and in considering who caused it, the one who gave the "d—d lie" should be regarded as one who gave the first blow.

In illustration of his own readiness to fight, may be cited the story that one day while he was upon the bench he became offended at some criticism made by a member of the bar upon one of his decisions. He managed to restrain his ire while court was in session, but promptly after adjournment he sought the offender and taking off his coat said to him, "Sir, I would have you know that as long as I am in the court house and upon the bench I am *Judge William Daniel*, and cannot afford to notice your insults, but out here on the court-green I am *Billy Daniel*, and will hold you personally responsible for what you have said."

The trait of pugnacity in his character is further witnessed by the tradition that he once adjourned his court in order that he and the lawyers might witness a fight, but it is only fair to say that none of these stories bears the stamp of probability, for he was not only of sound learning in the law, but always maintained his dignity as a judge, and compelled others to respect the office. More in keeping with what is really known of him is the story of the rebuke administered by him to a lawyer who said to him, "Judge, do you know that I have heard you accused of taking sides in court?" "That may be true, sir," said Judge Daniel, "but I warrant you never heard of me taking the wrong side."

The purpose of this paper, however, mainly concerns the younger William Daniel. While in many respects his genius was hereditary, and the resemblance between his talents and those of his gifted father was close and striking, yet there were many points in which their characteristics widely differed. The father, while cultivated and highly accomplished, was to some extent a diamond in the rough. The son was a diamond cut and polished, every facet gleaming and scintillating. The father wielded a mighty battle-axe, with which he dealt fierce and ponderous strokes, as he bore down with resistless force upon

the point before him. The son fought with a delicate but trenchant rapier, whose keen and brightly flashing blade sought out the heart of the adversary's cause and exposed its fallacies.

William Daniel, Jr., was born on the 26th of November, 1806, at the home of his grandparents, the Baldwins, in Winchester, and he lived until a lad of twelve or thirteen years of age in Cumberland county, Va., of which county his father was a native. In 1819 the family moved to Lynchburg, and from that city the subject of this article went in 1822 to pursue his studies at Hampden-Sidney College, where he graduated in 1826. Very little is known of his career at college, outside of the facts that he was especially proficient in the mastery of Latin syntax, and was a member of the Philanthropic Society. Among the distinguished men who were his college-mates at Hampden-Sidney, were Thomas Atkinson, D. D., once Bishop of North Carolina; Hugh A. Garland, the biographer of John Randolph, who was also clerk of the National House of Representatives; Thomas T. Giles, son of the Governor of Virginia and a distinguished member of the Richmond bar; William Ballard Preston, member of Congress from Virginia in 1847-49, Secretary of the Navy under President Taylor, and a Confederate Senator; William S. White, D. D., of Lexington, Va.; Alexander Rives, a United States district judge; George E. Dabney, Professor at Washington College (now Washington and Lee University); Theoderick Pryor, D. D., a prominent Presbyterian clergyman and father of Judge Roger A. Pryor, of New York; and William M. Tredway, member of Congress, and judge of the Danville circuit.

Upon leaving Hampden-Sidney, he studied law at the University of Virginia, and shortly after his graduation began the practice of law in Lynchburg, which city remained his home the rest of his life.

From the very beginning of his career as a lawyer he was a man of mark. His powers as a speaker and advocate soon attracted notice, and his position among the leaders of the bar in his section became assured. At the age of twenty-four he was elected to the House of Delegates, being at that time under the required age for members of that body (twenty-five years), but he attained that age before the time arrived for him to begin his service. This was in 1831. In January, 1832, while in attendance upon the legislature for his first term, he wrote to a friend in Lynchburg a letter from which is made the following interesting extract:

"You have no doubt seen by the papers that we have been engaged busily for the last three weeks in the discussion of the question of the abolition of slavery. The question was taken on yesterday, when there was found to be a majority of fifteen opposed to taking any step during the present session. The debate has been one of great ability and warmth. No one at a distance can form any idea of the interest which it has excited here. The house during the whole of the debate has been crowded almost to overflowing by the large and attentive audiences of both sexes which have attended. I have never witnessed a debate conducted with greater ability. But it is one, I think, which is to be very much deplored. The strange doctrines advanced, and the total disregard exhibited by the West for anything like constitutional rights, have excited in the members of the East feelings that forebode but little good to the Republic. A division of the State, the mere thought of which some months since was quite startling, is now looked upon with composure. The people of the East regard the continual agitation of this question, even if it is not finally carried, as far more injurious and destructive than a division, and if the subject is again brought before the House next session it will be the signal for a proposition at once to divide. I had no idea before I came to this place that there was so little community of feeling and interest between the two grand divisions of the State. You have seen, no doubt, that I made my *début* on this question. I have enclosed a copy of the *Whig* containing my speech to Risque,\* which if you find not too dull, you can read and let me know if it contains the true faith.† I made it before a crowd of men and women, and, as you know my modesty, you can guess my alarm, which knocked me out of a good deal that I intended to have said."

Evidently his course upon this and other questions was satisfactory to his constituents, as he was thrice consecutively re-elected.

He never held any other office of a political character, although he once made an unsuccessful campaign for Congress. Like his father, he was a devoted believer in the State Rights principles of Jefferson and Madison, and so ably did he defend those principles upon the hustings, that Thomas Ritchie, the famous editor of the Richmond *Enquirer*, bestowed upon him the soubriquet of the "Leonidas of the Western Pass." He was an elector on the Democratic ticket for Martin Van Buren in 1840, and had a memorable meeting with Gen. Leslie Coombs, of Kentucky, who came to Campbell county as a leader of the Whigs, dressed in the style of a Kentucky hunter. The Democrats were delighted with the speech of their champion and it gave him a great reputation. When another great Whig leader met Mr. Daniel on another occasion he proposed that he and Mr. Daniel be sworn before they spoke—saying that the Democrats were often rambling and incorrect in their statements. "My mother taught me to tell the truth," said Mr. Daniel, "and my neighbors have never thought an

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\* Maj. James B. Risque, the famous criminal lawyer of Lynchburg.

† This speech is also reported in the Lynchburg *Virginian*, of February 9, 1832.

oath necessary to my veracity. Besides that I have another objection to your proposition—all the advantage of it would be on your side!”

It was not as a politician, however, that he was destined to achieve his principal distinction. The law was his first love, and he devoted himself to her service with the zeal and enthusiasm which that jealous mistress exacts from those upon whom she bestows her favors. The first partnership of which he was a member was that in which John Wills, Esq., a well-known Lynchburg lawyer, was his coadjutor. Mr. Wills was an able and well-furnished lawyer, especially learned in equity jurisprudence, and had been an able prosecuting attorney. Much of his training had been received in a clerk's office, and this gave him familiarity with the forms of law as well as that systematic neatness which has “a place for everything and everything in its place.” It is said that one day he came into the office and found his partner with an immense pile of books, papers and stationery on the floor surrounding him, deeply immersed in study and apparently oblivious of the confusion which he had created. The ruling passion for method and good order came into play, and Mr. Wills began to gather up the *débris*, with the view of arranging it properly, when the student roused himself from his absorbing employment to say “Please don't touch them. I have just fixed them!”

He was also at one time in partnership with Hon. Robert J. Davis, whose “good gray head” is still a familiar sight upon the streets of Lynchburg, and whose blameless life and exalted character have endeared him to all who know him, and create in them the hope that the evening of his days may be as happy as his heart has been pure, and that, at the last, the immortality which is so real to him may dawn upon him as gently and as clearly as the sunrise.

The partnership with Mr. Davis was broken early in 1847, in order to allow Judge Daniel to take his seat upon the bench of the Supreme Court of Appeals, he having been elected to that court on the 15th day of December, 1846, to fill the vacancy occasioned by the death of Judge Robert Stanard. It is an interesting coincidence that at one time Judge William H. Cabell, president of the court, who afterwards became Judge Daniel's father-in-law, Judge Briscoe B. Baldwin, his uncle, and himself were all on the bench of the Court of Appeals at the same time, and that he was succeeded by Judge Wood Boulton, who married his sister, Miss Martha Daniel, a notable belle and wit of fragrant memory. His service on that bench continued from his first election until—to use the vigorous language of his friend, Judge James



Garland, who presided over the Corporation court of Lynchburg at the time of Judge Daniel's death—"he was driven from the bench by the hand of tyrannic power—not by Virginians—simply because he was too pure, too patriotic and too incorruptible to unite with the invaders and enemies of his native State, in hunting down and oppressing her people, that thrift might follow fawning." This was when, in the year 1865, the Alexandria government, being recognized by Congress, extended its authority to the entire State, and aided by Federal bayonets, and in pursuance of the so-called "constitution" it had adopted in 1864, displaced the regularly constituted authorities of the State. It was this *pseudo*-government, which, organized at Wheeling in 1861, and removed to Alexandria in 1863, had been recognized by the United States authorities as the lawful government of Virginia, and had consented to the extra-constitutional acts which had resulted in the dismemberment of the State. Such was the sequel of the "disregard of constitutional rights," which in 1832 excited young Daniel's apprehension, and now in his mature years fulfilled it in a manner which made him, in an especial sense, one of its victims.

His ability as a Supreme Court judge may be seen in his opinions, which are to be found in the Virginia Reports in the volumes from 3 Grattan to 16 Grattan inclusive. They show depth of research, clearness of thought and of expression, soundness and impartiality. Judge Garland, in the address already quoted from, which was read before the assembled bar of Lynchburg at a meeting held in his memory shortly after his death, said, "He was an improving and a rising man from the time he entered upon the discharge of the duties of the office. . . . In his judicial administration he was not only able and learned, but inflexibly just, incorruptibly pure and inexorably impartial." At the same meeting of the bar his life-long friend and quondam partner, Mr. Davis, presented a series of resolutions, which were adopted, in which he paid a noble tribute to his memory, saying among other things: "Imbued with the spirit of the law; thoroughly grounded in its general principles, and guided by an enlightened sense of justice, his administration in the Court of Appeals of Virginia was able, faithful and conservative, upholding the elevated reputation of the court."

While quoting from the opinions of his contemporaries, that of the late John Randolph Tucker should be given. In his invaluable address before the Richmond Bar Association in 1895, entitled "Reminiscences of Virginia's Judges and Jurists,"\* Mr. Tucker, who was

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\* Appendix to Vol. I, Va. Law Register.

Attorney-General of Virginia while Judge Daniel was a member of the Court of Appeals, spoke of him in the following language:

"On the death of Judge Standard in 1846 (he died with paralysis, pen in hand, writing his unfinished, yet valuable opinion in *Yerby v. Lynch*,\*) William Daniel, an eminent lawyer at the Lynchburg bar, succeeded him, and held the position until military edict removed him. He was the son of the eminent circuit judge, William Daniel, whose character has left its impress on the judicial history of the State. . . . Judge William Daniel was by heredity a lawyer. His father, Judge William Daniel, was eminent as a judge, and the son was a nephew of Judge Briscoe G. Baldwin. He added to his juridical inheritance largely by his own talents and study. His mind was acute, discriminating and vigorous; and his extensive practice, as well as his service in the State legislature and his fine powers as an advocate and public speaker, gave to his decisions as judge a breadth which took a range beyond the strict limits of mere judicial investigation. A good specimen of his powers as a constitutional lawyer is his opinion in the elaborately argued case of *Baker v. Wise*.† If I may be permitted to criticise, I may add that his intellectual gifts were perhaps better suited to the conflicts of the bar than to judicial discussion, though he was eminent in both; and he earned, as he merited, the praise of the profession during his nearly twenty years' service, for great ability, impartiality and integrity as judge of the Supreme Court of the commonwealth."

At the risk of being considered presumptuous, the writer begs leave to dissent from the opinion of Mr. Tucker in so far as it might be construed as indicating that Judge Daniel was better fitted for an advocate than a judge, for there was no judge upon the great court of which he was a member who bore a higher reputation for sagacity and soundness in judicial opinion. Where, for instance, can be found in the Virginia Reports an abler opinion than that in *Baker v. Wise*, cited by Mr. Tucker? He was as truly a great judge as he was a great lawyer, and his opinions are as much relied upon by the bar of to-day as those of any other judge who ever sat upon the bench of that distinguished tribunal. Another example of his judicial ability and acumen is his opinion in the case of *Morris v. Morris*,‡ in which he and Judge Allen set forth conflicting views with great ability, and many others might be cited. The late R. G. H. Kean, Esq., a few years prior to his death, stated that the finest legal battle he ever witnessed was in a very important trial at Campbell Courthouse, when Judge Daniel and Judge Wood Bouldin were pitted against each other; but while he considered Judge Daniel a remarkable lawyer and brilliant advocate, he considered him even greater as a judge, for although he was a man of warm heart and kindly impulses, he had the faculty

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\*3 Gratt.460.

†16 Gratt. 139.

‡4 Gratt. 293.

when on the bench of subordinating his feelings and deciding a case entirely upon its merits, considering only the law and the evidence, and for that reason it could never be said in connection with him, as it might be with some other judges he had known, that "hard cases make bad law." It is not intended, however, to underrate the office of advocate, even as compared with that of judge. Mr. Kean used also to say that "the advocate is the highest type of the lawyer." If this be true, then, leaving out his judicial career, Judge Daniel is certainly entitled to high rank among the great jurists of this State, for, as Mr. Tucker well points out, his talents eminently qualified him as a successful advocate, and it is doubtful if the State has ever produced a son more thoroughly equipped at all points for the arduous and responsible duties of the trial lawyer. No more indomitable a fighter was ever known at the bar. He never gave up his grip on a case, and would send anywhere to get a book that would throw greater light on the subject. This unyielding tenacity often served him in good stead, and more than once enabled him to pluck victory out of the very jaws of defeat.

Upon a certain occasion when he had lost a case in the Special Court of Appeals, he instantly went to work for a rehearing, the court having been misled by a dictum of Chief Justice Marshall, and, on his re-exposition of the case, he was successful. To give an idea of the extent of his practice, it may be stated that at one time he had more cases in the Court of Appeals of Virginia than any other lawyer.

But, again, let those speak who were closely and intimately associated with him, the friends who were witnesses of his labors and his triumphs, and who were, therefore best fitted to testify.

Judge Garland said in his memorial address :

"As a member of the bar he was not only able and learned, but inflexibly honest and faithful, a powerful advocate and most formidable antagonist. In his practice he was always fair, disdaining any of those trickeries and stratagems which sometimes deform the profession, and was uniformly courteous to the court and his adversaries."

The preamble to the resolutions prepared by Mr. Davis is no less eloquent in his praise :

"Gifted by nature with a vigorous and unusually discriminating mind, well prepared by education for the profession to which he devoted himself, and soon thoroughly trained for it by practice in the intellectual combats of the forum, he was, during the period of his professional career, engaged in the conduct of the most grave and weighty causes which arose within the range of his practice. In

the conduct of these causes, inspired by a high sense of personal and professional honor, and an unusually nice appreciation of the rights and feelings of others, in a strain of eloquence elevated, earnest and lucid—at times collected and calm, but generally rapid and vehement—turning neither to the right hand nor the left for ornament or self-seeking, with persistent zeal for his client and unwavering fidelity to his cause, in the light only of the law and the testimony, he bore upon the point before him with all the proud logic of his vigorous and well-trained mind, and not only acquitted himself well, but admirably, and thus in our presence long graced the office of advocate.”

Upon another occasion Mr. Davis said:

“Daniel was in the habit of concentrating on a few vital points, displaying extraordinary energy and power. He was never so much himself as when upon his feet in the argument of a cause, and he had such perfect possession of his faculties, and so much presence of mind, that in the full tide and torrent of his eloquence he could receive a suggestion from his coadjutor, or remove an impediment of his adversary.”

Mr. Davis, who was, perhaps, better acquainted with him than any other person now living, outside of his immediate family, is also authority for the statement that Judge Lucas P. Thompson, of the General Court, once characterized his speech in a great case in Amherst county, made just before he took his seat upon the bench, as one of “transcendent ability.”

After his retirement from the bench he returned with unabated vigor and zeal to his practice, being at one time in partnership with his son and son-in-law, under the firm name of Daniel, Halsey & Daniel.

Judge Daniel was twice married. His first marriage was celebrated on December 8, 1841, when Sarah Ann Warwick, the lovely daughter of John M. Warwick, Esq., of Lynchburg, became his wife. Of this union was born two children, John Warwick Daniel, now a United States Senator from Virginia, and Sarah Ann Warwick Daniel, who married Don P. Halsey, Esq., of the Lynchburg bar. His second marriage was to the beautiful and accomplished Elizabeth Cabell, the daughter of Judge Cabell and a renowned belle of Richmond, who bore him no children, but who became a mother, in the tenderest sense of the word, to the children of his former wife. She survived him many years, going to her last rest on November 7, 1892.

Judge Daniel himself died March 28, 1873, in the 68th year of his age. His death occurred suddenly, from apoplexy, at Lovingston, Nelson county, while he was in attendance upon the circuit court of that county. Up to a few moments before he was stricken, he was apparently in perfect health. The stroke came about 8 o'clock in the

evening, and within half an hour from that time his noble spirit took its flight, and his long and useful career was ended. The remains arrived in Lynchburg the following afternoon, and were met at the depot by a large number of prominent citizens, including the members of the bar, and escorted to his home, "Rivermont," on Daniel's Hill.

The funeral services were held on March 31, at St. Paul's P. E. church, the Rev. Henderson Suter, D. D., conducting them, and were attended by an immense throng. The bar of the city was present in a body, the courts having adjourned in honor of his memory. It is worthy of note that Judge Alexander Rives, his college-mate at Hampden Sidney, and in later years his political antagonist, who was judge of the United States District Court, then holding a session in Lynchburg, caused the following order to be entered upon the record :

"On the motion of the District Attorney, it is ordered, as a mark of its respect for the late William Daniel, Jr., a former judge of the Supreme Court of Appeals, and a member of the bar of this court, and to enable the court and bar to attend the funeral of the deceased to-day, that the court take a recess until 2 o'clock."

In his personal appearance Judge Daniel was very tall, fully six feet in height, sparely and slenderly made, not to say gaunt, but erect as an Indian and of distinguished presence. His features were large and prominent, his brow broad and high, his chin and lower face, free from beard, denoting firmness, decision and determination. Taken altogether, his appearance was handsome and striking, such a physiognomy as would have attracted attention anywhere. Aurelius Christian, Esq., a distinguished lawyer of Lynchburg, and for a long time commonwealth's attorney, once said of him, "He walked the earth like a king." His eyes were extremely dark and bright, with that peculiar steady gleam in them which, although kindly and benevolent at most times, gave the impression that he could "see through you," and would upon occasion flash with the fire of indignation.

He was very fond of outdoor exercise and was a great walker, often going miles on foot in the mountains of Greenbrier county during the summer, when the Supreme Court met, as it used to, at Lewisburg.

While a practicing lawyer it was his maxim to be "the first on the field and the last to leave it," and so he usually went to the courts on Sunday afternoon, and never left until he had seen the decrees and judgments in which he was interested signed. After his retirement from the bench, and he had returned to the practice, his habits of

study clung to him, and he would spend all of his time that he could spare for the purpose in studying the law with all the ardor of first love. At "Rivermont," his beautiful home (where Maj. E. S. Hutter now resides), which had been so named by his wife because of the superb view of the mountains and of the river that could be seen from it, after tea, and a little time spent socially with his family, he would say, "Now I must take my books and get my lessons," and descending to his study, would remain there until the small hours of the morning. He also lived, for a while after his first marriage, at "Point of Honor," a beautiful old place, still to be seen on Daniel's Hill, which obtained its name from the fact that it was once in the long ago the scene of a duel between Captain Samuel Wise and Mr. Henry S. Langhorne. Upon both of these fine estates, with the broad acres surrounding them (now a part of the city of Lynchburg), he indulged his fondness for gardening and agriculture, at one time conducting quite a large plantation and truck garden upon these estates and the islands in the river near by. His slaves were devoted to "Marse William," and certainly no servants ever had a kinder or more considerate master, as those now living are proud to testify.

In progressiveness of ideas he was ahead of his times, and it is said that he conceived the idea, over fifty years ago, of uniting Main street with the section now known as Rivermont, by means of a bridge, an undertaking that was considered visionary at the time, but which has now become an accomplished fact.

He was extremely social in disposition, friendly with everybody, and universally popular. His manners were extremely simple, yet courtly and refined, those of the true type of the "old Virginia gentleman," and no one needed to be told who had ever had the pleasure of associating with him that he was "to the manor born." One of his accomplishments was the rare one of being a good *raconteur*. He could relate a good story or tell a joke with great effectiveness, illustrating the narrative with dramatic (but always appropriate) gestures, or enlivening it with laughter-provoking mimicry. He was fond of the society of young people, and famous for delighting them with conundrums. Although his nature was particularly a sunny one, and his whole being filled with kindness, he was sometimes a little quick in temper. He was just as quick, however, to apologize when he had been in the wrong, and it was almost worth while to be the victim of an outburst of his wrath to be the recipient of the *amende honorable* as he could make it.

Always a student, and of scholarly attainments in letters, he was a great reader and lover of good literature. His graduation speech at Hampden-Sidney was upon the subject of "Machiavelli." When "The Parisians," Bulwer's great novel, first appeared, it came out in a periodical without the author being known. Judge Daniel declared on reading it that a new genius had appeared in literature who would lead a great career. Not long after the name of the master was known. It is said that it was the habit of Judge Daniel, when preparing for the argument of a case, to read one of Scott's novels, or some other work of standard literature, for the sake of the command of choice language which he could thereby obtain. He did but little work of a purely literary character, however, and delivered but few orations, but one on the death of General Andrew Jackson was regarded as notably eloquent. It may be found in the *Lynchburg Virginian* of July 24, 1845.

In all the relations of life his example was a model. He was a devoted husband and a fond and loving father, and his fireside example is treasured by his children as a precious remembrance. He had four sisters, one, already referred to, who married Judge Wood Bouldin; Eliza Daniel (from whom he inherited "Point of Honor"), who married Mr. Lewis Cabell; Cornelia, wife of Mr. Mayo Cabell, of Union Hill, and mother of Mr. William D. Cabell, of Norwood; and Elvira, the wife of General Charles Ellet, a distinguished civil engineer, one of whose exploits was the building of a famous bridge across the Mississippi river at St. Louis, and another the introduction of wire suspension-bridges into America, erecting one at Fairmount, Pa., in 1842, and one across the Niagara, below the falls, in 1847. To all of these he was a loyal and affectionate brother, and they in turn clung to him with admiring devotion. As a citizen he was patriotic and zealous for the welfare of his State and community, loving Virginia, her people and her institutions, as a loyal and dutiful son loves a kind and faithful mother. For her sake he gladly sacrificed official station and private fortune, and held not life itself too dear to have been yielded up in her behalf had she demanded it. As a man he was high-toned, chivalrous and honorable, generous to a fault, true to his friends, forgiving to his enemies, mindful of all the obligations that rested upon him, and showed in every action that he could stoop to nothing low.

While not a member of any church, he held in sincere veneration the religion of Christ, and the lives and examples of true Christians

he cherished with respect and admiration. And as in all matters simplicity marked his tastes, so in regard to denominational preference he inclined towards the Methodists, whose strict adherence to primitive methods had, in his opinion, done much to keep alight the lamp of "true religion and undefiled." His children were brought up in the Methodist church, and in Court Street church he was a pew-holder and liberal contributor, thus proving his approbation and support of the recognized institutions of the religion whose doctrines of love and good-will he exemplified in deeds of charity and benevolence. A short time before his death he said to a friend with whom he was upon terms of affectionate intimacy, "I have perfect confidence in the death of my Redeemer;" and inasmuch as it is written, "He that believeth on Me shall never die," and "The just shall live by faith," may we not rest assured that

"Where the elevated brow of Kings  
Shall lose the impress of regalia,  
And the slave shall wear his immortality  
Free, beside the crystal waters,"

this simple, child-like trust of a truly royal soul has met its true reward?

On an unpretentious marble monument erected over his grave in the old Methodist cemetery, in Lynchburg, where he rests between his father and mother, in sight of the mountains he loved so well, are inscribed the words spoken by Wolsey to his servant Cromwell, "Be just and fear not"; and underneath are the balances emblematic of justice. Such was the keynote and inspiration of his life. Such is the heritage he left to those who were to follow him. In conclusion, therefore, no better expression can be found of the feelings which have attended the preparation of this brief sketch of his life, than the words with which he ended his oration upon the life and services of President Jackson :

"Grateful homage to truth and excellence ever makes better the heart that tenders it. Departed worth reflects a genial light on those who worship at its shrine. And as we make our humble offering to the virtues of the noble dead, from the dust and ashes of the tomb there seems to come a voice to cheer, a light to guide, all who are emulous of their bright example."

DON P. HALSEY, Jr.

*Lynchburg, Va.*